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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,092	09/24/2001	Jianming Ye	9351-75	5987

1059 7590 06/15/2004

BERESKIN AND PARR  
SCOTIA PLAZA  
40 KING STREET WEST-SUITE 4000 BOX 401  
TORONTO, ON M5H 3Y2  
CANADA

EXAMINER

KRISHNAMURTHY, RAMESH

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/961,092	YE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ramesh Krishnamurthy	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13 - 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13 - 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3753

This office action is responsive to amendment filed 03/17/2004.

**Claims 13 – 27 are pending.**

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 12 – 18 and 24 – 27 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 00/36482.

The document WO 00/36482 discloses (Fig.2, for example) a back pressure valve, comprising: (a) a first housing including a first chamber formed therein having an inlet (2) and a fluid outlet (5) for a first fluid; (b) a second housing including a second chamber (21) formed therein, (c) a flexible diaphragm (10) having an outer peripheral edge portion abutting the second housing and closing off the second chamber, (d) a back pressure member (15) moveably disposed in the first chamber of the first housing for controlling fluid flow between the fluid inlet and the fluid outlet, wherein the first chamber is defined by the first housing and the back pressure member, wherein the flexible diaphragm is fixed onto and moveable together with the back pressure member, whereby pressure in the second chamber determines fluid pressure required to maintain the back pressure member in a steady position, and (e) a reference inlet (22) and a reference outlet (23), for a reference fluid, provided in the second housing, and a control valve means (26, 27, 31) in the second housing connected to the reference inlet and the

reference outlet, for controlling the pressure in at least part of the second housing applied to the flexible diaphragm and the back pressure member.

A pressure controlling device (31) that includes a processor is connected to the control valve means. A pressure transducer (3) is disposed downstream of the outlet (5). The control valve means comprises a reference inlet valve (26) and a reference outlet valve (27) controlling the flow into and out of the chamber (21) respectively. The reference inlet and outlet valves are not shown mounted within the second housing but do control the flow in and out respectively therefrom, thus are somehow mounted on the second housing.

Regarding claim 25 and 26, it is noted that a sleeve member is disclosed in WO 00/36482 (Fig. 2) to be disposed around the bore (2).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 19 – 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/36482 as applied to claims 12 – 18 and 24 – 27 above, and further in view of Uehara et al. (US 6,305,401).

The document WO 00/36482 discloses the claimed invention with the exception of explicitly disclosing the reference inlet and outlet valves to be mounted on a member that comprises a gas dome.

Uehara et al. discloses (Fig. 1) a back pressure valve comprising reference inlet valve (31) and a reference outlet valve (32) that are mounted in a gas dome and mounted on a end wall of the second housing (that has the second chamber (26a)) for the purpose of providing a self-contained valve assembly.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided in the device of WO 00/36482, a member comprising a gas dome in which are mounted reference inlet and outlet valves, for the purpose of providing a self-contained valve assembly, as recognized by Uehara et al..

It is also noted that Uehara et al. discloses a through hole (that communicates the second chamber (26a) with the reference inlet and outlet valves) wherein the gas dome is mounted so as to close off the through hole.

Regarding claim 22, it is noted that Uehara et al. discloses (Fig. 1) a flange portion, around the internal hollow portion, in the gas dome abutting the end wall of the second housing, the end wall and the flange portion each include at least one hole

permitting reference gas to flow from the reference gas inlet to the reference inlet valve (31), the flange portion includes at least one hole permitting the reference gas to flow from the reference inlet valve to the interior of the gas dome (at 26a) and at least one hole permitting the reference gas to flow out from the interior of the gas dome to the reference outlet valve (32), and the flange and the flange portion each include at least one hole permitting the reference gas to flow from the reference gas outlet valve to the reference gas outlet.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

#### ***Response to Arguments***

7. Applicant's arguments with respect to claims 13 - 27 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3753

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (703) 305 - 5295. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Scherbel, can be reached on (703) 308 - 1272. The fax phone number for the organization where this application or proceeding is assigned is (703) 872 - 9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 - 0861.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ramesh Krishnamurthy  
Examiner  
Art Unit 3753



David A. Scherbel  
Supervisory Patent Examiner  
Group 3700